

June 14, 2019

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VIA ELECTRONIC MAIL

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kirsten.sultan@vermont.gov

Kirsten Sultan, District Coordinator
District #7 Environmental Commission
374 Emerson Falls Road, Suite 4
St. Johnsbury, VT 05819-2209

Re: Victory Hill Trails Jurisdictional Opinion #7-286
Request to Intervene by Kingdom Trails Association, Inc.

Dear Kirsten:

On behalf of Kingdom Trail Association, Inc. (“KTA”), I am sending you this letter to request that KTA be granted leave to intervene in the above-referenced jurisdictional opinion (“JO”) proceeding. For the reasons that follow, KTA should be allowed to intervene.

By statute, certain persons and entities are accorded party status in proceedings before a district commission. Among those conferred party status are “any adjoining property owner or other person who has a particularized interest protected by [Act 250] that may be affected by an act or decision by a District Commission.” 10 V.S.A. § 6085(c)(1)(E). This language parallels the JO-related notice provisions of 10 V.S.A. § 6007(c), which reference

a subdivision 6085(c)(1)(E) list of persons who shall be notified by the district coordinator because they are adjoining property owners or other persons who would be likely to be able to demonstrate a particularized interest protected by [Act 250] that may be affected by an act or decision by a District Commission.

See generally In re Lamoille Valley Rail Trail Act 250 JO (Reconsidered), No. 208-10-09 Vtec, 2010 WL 3073880 (Vt. Super. Ct. Env'tl. Div. Jul. 30, 2010) (Wright, J.) (noting that district coordinators should evaluate granting party status to potential intervenors with reference to 10 V.S.A. § 6085(c)(1)(E)).

KTA has neither been formally notified of the above-referenced proceedings, nor formally served with any papers relating thereto. Nonetheless, the legal and contractual relationship between the requestors and KTA is at the heart of both the JO dated May 3, 2019, and the requestors’ petition for reconsideration dated June 3, 2019. “An ‘interest protected by Act 250 is sufficiently particularized if it is not a general policy concern shared by the public.’” *Id.* (quoting *In re Big Spruce Road Act 250 Subdivision*, No. 95-5-09 Vtec, slip op. at 5 (Vt. Env'tl. Ct. Apr. 21, 2010) (Durkin, J.)). KTA’s interest in these proceedings is a particularized one

arising out of the specific, highly relevant relationship between KTA and the requestors, not a generalized policy concern shared by the public.

Consequently, KTA has a very direct interest in any proceeding that will consider the facts bearing on that relationship, and will apply the pertinent law to those factual findings. The implications for KTA go beyond the Victory Hill Trails at issue since the findings and conclusions of any JO will potentially impact contractual and other relationships between KTA and other landowners or interested parties across which its trail network runs.

If granted party status as an intervenor, KTA would request a short period of time within which it may, if it chooses, provide supplemental documentation, information, and legal argument bearing on the issues raised by the JO and request for reconsideration. If you have any questions, please do not hesitate to get in touch. Otherwise, thank you for your attention to this matter and I look forward to receiving word as to whether KTA will be allowed to intervene in this proceeding.

Very truly yours,



Christopher D. Roy

CERTIFICATE OF SERVICE

Copies of the foregoing request to intervene were served by electronic mail on the following:

Hans G. Huessy, Esq.
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